



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2010 REGULAR SESSION

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HOUSE BILL NO. 278

AS ENACTED

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WEDNESDAY, APRIL 14, 2010

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TREY GRAYSON  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Adkins

AN ACT relating to local government premium taxes.

***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

1        ➔Section 1. KRS 91A.0804 is amended to read as follows:

2        (1) The provisions of this section shall provide the sole and exclusive method for the  
3        filing of amended returns and requests or assessments by any insurance company,  
4        local government, or policyholder for nonpayment, underpayment, or overpayment  
5        of any license fees or taxes imposed pursuant to KRS 91A.080 and the appeals from  
6        the denial or refusal thereof.

7        (2) For tax periods beginning after December 31, 2008, all amended returns, requests  
8        for refunds or credits, and assessments shall be made within two (2) years of the due  
9        date of the annual reconciliation provided for in KRS 91A.080(8) for the tax period  
10       during which the error was made, except that in the case of fraudulent failure to file  
11       a return or the filing of a fraudulent return, the underpayment may be assessed at  
12       any time. The provisions of this subsection shall not apply to any refund or credit to  
13       an insurance company or policyholder or assessment by a local government that is  
14       affected by litigation pending on July 15, 2008.

15       ~~(3)~~~~(2)~~ (a) Any insurance company that has paid a license fee or tax imposed by a  
16       local government pursuant to KRS 91A.080 may request a refund or credit for  
17       any overpayment of a license fee or tax or any payment when no tax was due  
18       within the time provided in subsection ~~(2)~~~~(1)~~ of this section.

19       (b) A request for a refund or credit by an insurance company shall be made by  
20       mailing an amended return and supporting documentation to the local  
21       government to which the fee or tax was paid. A complete refund request shall  
22       include the amended return and supporting documentation showing the total  
23       amount of overpayment of license fee or tax that the insurance company  
24       believes was erroneously paid and a breakdown of information for each policy  
25       upon which a refund or credit is requested, including the location of the risk

1 by street address or, if a street address is unavailable, another appropriate  
 2 identifier of the physical location, the amount of the erroneous payment, the  
 3 premium charged, the amount of tax or fee actually collected, the type or types  
 4 of risk insured, and the period the policy was in force during the taxable year  
 5 or years.

6 (c) For refund and credit requests submitted for payments made during tax  
 7 periods after December 31, 2009, the insurance company shall produce proof  
 8 that it employed risk location systems or programs meeting the requirements  
 9 of KRS 91A.0806 during the time for which the refund or credit is requested  
 10 or a copy of an Office of Insurance order issued pursuant to the administrative  
 11 regulation promulgated under KRS 91A.0806(3). If the insurance company  
 12 fails or is unable to produce such proof or a copy of the Office of Insurance  
 13 order, the local government shall be entitled to keep a penalty in the amount of  
 14 ten percent (10%) of the refund or credit that would have otherwise been due  
 15 the insurance company. Any dispute regarding the imposition of a penalty  
 16 shall be resolved under paragraph (d) of this subsection.

17 (d) If a local government fails to accept the completed amended return or refuses  
 18 to issue the requested refund or credit within ninety (90) days of its receipt,  
 19 the insurance company may make application to the Office of Insurance to  
 20 review the claim. The application shall be filed with the Office of Insurance  
 21 within thirty (30) days of receipt of the response from the local government or,  
 22 in the case of a local government's failure to respond, within thirty (30) days  
 23 of the end of the ninety (90) day period provided in this paragraph. The Office  
 24 of Insurance shall, within sixty (60) days of the receipt of the complete  
 25 application, issue an order of final agency action that the request for refund or  
 26 credit is or is not warranted in whole or in part. The executive director of the  
 27 Office of Insurance may grant one (1) extension of thirty (30) days for the

1 issuance of the order. As provided in KRS 304.2-310, either party may file an  
 2 administrative appeal from the order of the Office of Insurance within sixty  
 3 (60) days of the issuance of the order.

- 4 (e) No insurance company shall apply a credit to taxes or fees imposed by KRS  
 5 91A.080 without written agreement from the local government, without an  
 6 order of final agency action from the Office of Insurance order that the refund  
 7 is due, or without an administrative ruling from the Office of Insurance order  
 8 that a refund is due. Each violation of this paragraph shall be punishable as  
 9 provided in KRS 91A.080(7)(b) and (c).

10 ~~(4)~~~~(3)~~ (a) Any policyholder who has paid to an insurance company a license fee or  
 11 tax imposed by a local government pursuant to KRS 91A.080 may request a  
 12 refund or credit for an overpayment of a license fee or tax or any payment  
 13 when no tax was due within the time provided in subsection ~~(2)~~~~(1)~~ of this  
 14 section.

- 15 (b) A request for a refund or credit by a policyholder shall be made by mailing the  
 16 request to the insurance company to which the fee or tax was paid. The  
 17 request shall include the name of the policyholder, the address of the location  
 18 of the risk insured, the amount of overpayment of license fee or tax that was  
 19 erroneously paid, the dates of coverage, the amount of the fee or tax that was  
 20 paid, and the type of risk insured.

- 21 (c) If an insurance company fails to make payment or to grant credit to a  
 22 policyholder as requested within ninety (90) days of its receipt, the  
 23 policyholder may make application to the Office of Insurance to review the  
 24 request. The application shall be filed with the Office of Insurance within  
 25 thirty (30) days of receipt of the response from the insurance company or, in  
 26 the case of an insurance company's failure to respond, within thirty (30) days  
 27 of the end of the ninety (90) day period provided in this paragraph. The Office

1 of Insurance shall, within sixty (60) days of the receipt of the complete  
 2 application, issue an order of final agency action that the request for refund or  
 3 credit is or is not warranted in whole or in part. The executive director of the  
 4 Office of Insurance may grant one (1) extension of thirty (30) days for the  
 5 issuance of the order. As provided in KRS 304.2-310, either party may file an  
 6 administrative appeal from the order of the Office of Insurance within sixty  
 7 (60) days of the issuance of the order.

8 ~~(5)~~~~(4)~~ (a) If a local government has a reasonable basis to believe that a license fee  
 9 or tax imposed by it in accordance with KRS 91A.080 has not been paid or  
 10 has been underpaid, the local government shall request the Office of Insurance  
 11 to conduct an audit pursuant to the provisions of KRS 91A.080(7) within the  
 12 time provided in subsection ~~(2)~~~~(1)~~ of this section.

13 (b) If the findings of the audit show that an insurance company did not pay or  
 14 underpaid the local government, the local government may send an  
 15 assessment by mail to the insurance company. The notice of assessment shall  
 16 state the total amount of payment due from the insurance company based upon  
 17 the findings of the audit conducted pursuant to KRS 91A.080(7), the  
 18 geographic area affected, and the applicable license fee or tax rate.

19 (c) The insurance company may respond to the assessment by either paying the  
 20 assessment in full within ninety (90) days of its receipt or by filing an appeal  
 21 of the findings of the audit and the assessment with the Office of Insurance  
 22 within ninety (90) days of the receipt of the assessment. An insurance  
 23 company appealing the audit findings and assessment shall make application  
 24 to the Office of Insurance and provide notice of the challenge to the local  
 25 government by certified mail. The Office of Insurance shall, within sixty (60)  
 26 days of the receipt of the completed application, issue an order of final agency  
 27 action upon the findings of the audit and a determination that the assessment

1 is or is not warranted in whole or in part. The executive director of the Office  
 2 of Insurance may grant one (1) extension of thirty (30) days for the issuance of  
 3 the order. As provided in KRS 304.2-310, either party may file an  
 4 administrative appeal from the order of the Office of Insurance within sixty  
 5 (60) days of the issuance of the order.

6 (d) If the insurance company fails to make the full payment as requested by the  
 7 local government or fails to file an application of appeal with the Office of  
 8 Insurance within ninety (90) days of receipt of the assessment, the findings of  
 9 the audit and the assessment shall be deemed final, and the local government  
 10 may provide notification to the Office of Insurance to impose a penalty in  
 11 accordance with KRS 91A.080(7)(c). Any penalty imposed because of an  
 12 insurance company's failure to timely pay the assessment shall be in addition  
 13 to any penalties imposed as a result of the audit. The notification shall be filed  
 14 with the Office of Insurance within thirty (30) days of the end of the ninety  
 15 (90) day period provided in paragraph (c) of this subsection. The Office of  
 16 Insurance shall issue an order to the insurance company to pay the assessment  
 17 and any additional penalties imposed within thirty (30) days of the order, or  
 18 the Office of Insurance may revoke the license of the insurance company  
 19 under the provisions of KRS 91A.080(7) and KRS Chapter 304.

20 (e) The Office of Insurance may determine the scope of any audit requested under  
 21 this subsection and KRS 91A.080. Nothing in this chapter shall preclude the  
 22 Office of Insurance from exercising its discretion to conduct an audit or  
 23 examination of any insurance company under its authority as otherwise  
 24 provided in KRS Chapter 304.

25 ~~(6)(5)}~~ An administrative hearing held pursuant to this section shall be conducted  
 26 pursuant to KRS Chapter 13B. The hearing officer may compel any information  
 27 necessary to make a determination. Information concerning rates, the names and

addresses as of policyholders, and the expiration date of policies shall be proprietary and confidential, shall not be divulged to any person or organization not a party to the hearing, shall not be subject to disclosure or to the provisions of KRS 61.870 to 61.884, and the record shall be sealed at the conclusion of the hearing.

~~(7)~~~~(6)~~ If a refund or credit is received by an insurance company that passed the fee or tax on to the policyholder, and the amount refunded or credited is not owed to another local government, the insurance company shall pass the full amount of the refund or credit, including any collection fee that has been retained by the insurance company pursuant to KRS 91A.080(4), on to the policyholder from whom the fee or tax was collected within ninety (90) days of receipt of the refund or credit. For a refund or credit received by an insurance company for tax periods after December 31, 2009, that is not owed to another local government, the insurance company shall pay a penalty fee of ten percent (10%) of the total amount of the refund or credit due to the policyholder if the insurance company is unable to produce proof of the use of a risk location system as required under subsection ~~(3)~~~~(2)~~(c) of this section.

~~(8)~~~~(7)~~ No legal action shall be filed by any party prior to the exhaustion of all administrative remedies provided under this section.

~~(9)~~~~(8)~~ (a) Information on specific policies and policyholders provided to local governments pursuant to subsection ~~(3)~~~~(2)~~ of this section shall be considered confidential and proprietary information of an insurance company and shall not be disclosed or subject to disclosure under KRS 61.870 to 61.884. No present or former official or employee of a local government or any other person shall, intentionally and without authorization, inspect or divulge any information acquired by him or her of the affairs of any insurance company, or information regarding specific policies, policyholders, tax schedules, returns, or reports required to be filed with a local government, or any information produced by a hearing or investigation, insofar as the information may have to

do with the proprietary information of the insurance company. All county judges/executive, mayors, local government legislative body members, and local government employees whose duties include the fiscal affairs of their local government, shall be deemed to have the necessary authorization to inspect such information. Any person who violates the provisions of this paragraph shall be guilty of a Class A misdemeanor for each offense and the disclosure of information on each policyholder shall constitute a separate offense.

(b) Except for local governments that have been certified by the Internal Revenue Service or its agent as being in compliance with IRS safeguard requirements and authorized to receive federal tax information, any proprietary information provided to a local government for the purposes of compliance with subsection ~~(3)~~~~(2)~~ of this section and all copies or other records related to such information shall be destroyed in an irreversible, secure, and confidential manner in accordance with KRS 171.410 to 171.740 and the administrative regulations promulgated or approved thereunder. A local government failing to destroy proprietary information in accordance with this paragraph shall be subject to a civil penalty payable to the insurance company of five hundred dollars (\$500) for each offense, and the disclosure of information on each policyholder shall constitute a separate offense. An insurance company may commence a civil action in a court of competent jurisdiction for payment of the civil penalty. The total civil penalty shall not exceed ten thousand dollars (\$10,000) per incident.

(c) This subsection shall not preclude the disclosure of information to the Office of Insurance or to the legal representative of the local government for purposes of administrative hearings or legal appeals therefrom, nor shall it prohibit the local government from verifying the accuracy of the information



1 with an individual policyholder to whom the information pertains.

2 ~~(10)~~~~(9)~~ The filing of amended returns, requests for refunds or credits, assessments,  
3 and all applications and notification by any party to the Office of Insurance for  
4 review under this section, shall be sent to the designated party or parties by certified  
5 mail, return receipt requested.

6 ➔Section 2. KRS 304.10-180 is amended to read as follows:

7 (1) Each broker shall pay the following taxes:

- 8 (a) A tax at the rate of three percent (3%) on the premiums, assessments, fees,  
9 charges, or other consideration deemed part of the premium as defined in KRS  
10 304.14-030, on surplus lines insurance subject to tax transacted by him or her  
11 with unauthorized insurers during the preceding calendar quarter as shown by  
12 his or her quarterly statement filed with the executive director in accordance  
13 with KRS 304.10-170. The tax shall not be assessed on the premium  
14 surcharge tax, the local government premium tax, or any other state or federal  
15 tax. The tax shall be remitted to the executive director within thirty (30) days  
16 of the end of each calendar quarter. When collected the tax shall be credited to  
17 the insurance regulatory trust fund, as established by KRS 304.2-400;
- 18 (b) The premium surcharge tax, to be remitted to the Kentucky Department of  
19 Revenue, in accordance with KRS 136.392; and
- 20 (c) The local government premium tax, to be remitted to the appropriate city,  
21 county, or urban-county government taxing authority, in accordance with KRS  
22 91A.080. Each broker shall be subject to the provisions of this section and  
23 KRS 91A.080 and 91A.0802 to 91A.0810~~[91A.0808]~~ as an insurance  
24 company.

25 (2) If a surplus lines policy covers risks or exposures only partially in this state the tax  
26 so payable shall be computed upon the proportion of the premium which is properly  
27 allocable to the risks or exposures located in this state.

1        ➔Section 3. KRS 91A.0810 is amended to read as follows:

2        (1) Effective December 31, 2008, if the local government premium tax is included in  
3        the premium charge to the policyholder, the insurance company shall include~~[-on~~  
4        ~~either the renewal certificates or billings]~~ the amount of the local government tax  
5        charged for the period and the name of the taxing jurisdiction to which the local  
6        premium tax is due for:

7        (a) Newly issued policies on the:

8                1. Policy;

9                2. Declaration sheet; or

10               3. Initial billing instruments; and

11        (b) Renewed policies on the:

12               1. Renewal certificate; or

13               2. Billing instrument for each period for which premium or additional  
14               premium is charged to a policyholder by the insurance company.

15        (2) Before December 31, 2008, each insurance company shall cause each current  
16        policyholder to be notified of the policyholder's rights under this chapter. The one  
17        (1) time notice may be sent to the policyholder under any mode of communication  
18        normally used between the insurance company and the policyholder and may be  
19        sent as a separate notice or included as an additional item within routine statements,  
20        billings, or other notices. The Kentucky Office of Insurance shall promulgate by  
21        administrative regulation the text of such notice, which shall include:

22               (a) A statement that past and future premium charges may include a local  
23               insurance premium tax; and

24               (b) A statement that a policyholder who has been erroneously charged or  
25               overcharged the local insurance premium tax may obtain information for  
26               requesting a refund or credit by contacting the insurance company to which  
27               the local insurance premium tax was erroneously paid.

1 (3) Any insurance company contacted by a policyholder under subsection (2) of this  
 2 section shall, within thirty (30) days of the contact, provide the policyholder the full  
 3 text of KRS 91A.0804(3) to inform the policyholder of the procedural requirements  
 4 for requesting a refund or a credit. The insurance company may, at its option,  
 5 include a summary or explanation of the procedural requirements in addition to  
 6 providing the text.

7 ➔Section 4. KRS 91A.080 is amended to read as follows:

8 (1) The legislative body of each local government which elects to impose and collect  
 9 license fees or taxes upon insurance companies for the privilege of engaging in the  
 10 business of insurance may enact or change its license fee or rate of tax to be  
 11 effective July 1 of each year on a prospective basis only and shall file with the  
 12 executive director of insurance at least one hundred (100) days prior to the effective  
 13 date, a copy of all ordinances and amendments which impose a license fee or tax.  
 14 No less than eighty-five (85) days prior to the effective date, the executive director  
 15 of insurance shall promptly notify each insurance company engaged in the business  
 16 of insurance in the Commonwealth of those local governments which have elected  
 17 to impose the license fees or taxes and the current amount of the license fee or rate  
 18 of tax.

19 (2) Any license fee or tax imposed by a local government upon an insurance company  
 20 with respect to life insurance policies, may be based upon the first year's premiums,  
 21 and, if so based, shall be applied to the amount of the premiums actually collected  
 22 within each calendar quarter upon the lives of persons residing within the corporate  
 23 limits of the local government.

24 (3) Any license fee or tax imposed by a local government upon any insurance company  
 25 with respect to any policy which is not a life insurance policy shall be based upon  
 26 the premiums actually collected by the insurance company within each calendar  
 27 quarter on risks located within the corporate limits of the local government on those

1 classes of business which the insurance company is authorized to transact, less all  
2 premiums returned to policyholders. In determining the amount of license fee or tax  
3 to be collected and to be paid to the local government, the insurance company shall  
4 use the tax rate effective on the first day of the policy term. When an insurance  
5 company collects a premium as a result of a change in the policy during the policy  
6 term, the tax rate used shall be the rate in effect on the effective date of the policy  
7 change. With respect to premiums returned to policyholders, the license fee or tax  
8 shall be returned by the insurance company to the policyholder pro rata on the  
9 unexpired amount of the premium at the same rate at which it was collected and  
10 shall be taken as a credit by the insurance company on its next quarterly report to  
11 the local government.

12 (4) The Office of Insurance shall, by administrative regulation, provide for a reasonable  
13 collection fee to be retained by the insurance company or its agent as compensation  
14 for collecting the tax, except that the collection fee shall not be more than fifteen  
15 percent (15%) of the fee or tax collected and remitted to the local government or  
16 two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate  
17 computation, collection, and remittance of the fee or tax and collection fee provided  
18 in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section,  
19 together with the collection fee in this section, may be rounded off to the nearest  
20 dollar amount.

21 (5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky  
22 domiciliary insurer because of the requirements of this section, the executive  
23 director of insurance shall impose an equal tax upon the premiums written in this  
24 state by insurers domiciled in the other state.

25 (6) Accounting and reporting procedures for collection and reporting of the fees or  
26 taxes and the collection fee herein provided shall be determined by administrative  
27 regulations promulgated by the Office of Insurance.

- 1 (7) (a) Upon written request of the legislative body of any local government, at the  
 2 expense of the requesting local government, which shall be paid in advance by  
 3 the local government to the Office of Insurance, the Office of Insurance shall  
 4 audit, or cause to be audited by contract with qualified auditors, the books or  
 5 records of the insurance companies or agents subject to the fee or tax to  
 6 determine whether the fee or tax is being properly collected and remitted, and  
 7 the findings of the audit shall be reported to the local government and the  
 8 insurance company subject to the audit. An insurance company may appeal  
 9 the findings of the audit conducted under this subsection and any assessment  
 10 issued pursuant to the audit findings in accordance with the provisions of KRS  
 11 91A.0804~~(5)~~~~{(4)}~~.
- 12 (b) Willful failure to properly collect and remit the fee or tax imposed by a local  
 13 government pursuant to the authority granted by this section shall constitute  
 14 grounds for the revocation of the license issued to an insurance company or  
 15 agent under the provisions of KRS Chapter 304.
- 16 (c) If the Office of Insurance finds that an insurance company has willfully  
 17 engaged in a pattern of business conduct that fails to properly collect and  
 18 remit the fee or tax imposed by a local government pursuant to the authority  
 19 granted by this section, the Office of Insurance may assess the responsible  
 20 insurance company an appropriate penalty fee no greater than ten percent  
 21 (10%) of the additional license fees or taxes determined to be owed to the  
 22 local government. The penalty fee shall be paid to the local government owed  
 23 the license fee or tax less any administrative costs of the Office of Insurance in  
 24 enforcing this section. Any insurance company or agent held responsible for a  
 25 penalty fee may request a hearing with the Office of Insurance to be conducted  
 26 pursuant to KRS 304.2-310 to 304.2-370 regarding the finding of a willful  
 27 violation and the subsequent penalty fee.

1 (8) The license fees or taxes provided for by subsections (2) and (3) of this section shall  
2 be due thirty (30) days after the end of each calendar quarter. Annually, by March  
3 31, each insurance company shall furnish each local government to which the tax or  
4 fee is remitted with a breakdown of all collections in the preceding calendar year for  
5 the following categories of insurance:

- 6 (a) Casualty;
- 7 (b) Automobile;
- 8 (c) Inland marine;
- 9 (d) Fire and allied perils;
- 10 (e) Health; and
- 11 (f) Life.

12 (9) Any license fee or tax not paid on or before the due date shall bear interest at the tax  
13 interest rate as defined in KRS 131.010(6) from the date due until paid. Such  
14 interest payable to the local government is separate of penalties provided for in  
15 subsection (7) of this section. In addition, the local government may assess a ten  
16 percent (10%) penalty for a tax or fee not paid within thirty (30) days after the due  
17 date.

18 (10) No license fee or tax imposed under this section shall apply to premiums received  
19 on:

- 20 (a) Policies of group health insurance provided for state employees under KRS  
21 18A.225;
- 22 (b) Policies insuring employers against liability for personal injuries to their  
23 employees or the death of their employees caused thereby, under the  
24 provisions of KRS Chapter 342;
- 25 (c) Health insurance policies issued to individuals;
- 26 (d) Policies issued through Kentucky Access created in Subtitle 17B of KRS  
27 Chapter 304; or

1 (e) Policies for high deductible health plans as defined in 26 U.S.C. sec.  
2 223(c)(2).

3 (11) No county may impose the tax authorized by this section upon the premiums  
4 received on policies issued to public service companies which pay ad valorem taxes.

5 (12) Insurance companies which pay license fees or taxes pursuant to this section shall  
6 credit city license fees or taxes against the same license fees or taxes levied by the  
7 county, when the license fees or taxes are levied by the county on or after July 13,  
8 1990. For purposes of this subsection, a consolidated local government, urban-  
9 county government, charter county government, or unified local government shall  
10 be considered a county.

11 (13) No license fee or tax imposed under this section shall apply to premiums paid to  
12 insurers of municipal bonds, leases, or other debt instruments issued by or on behalf  
13 of a city, county, charter county government, urban-county government,  
14 consolidated local government, special district, nonprofit corporation, or other  
15 political subdivision of the Commonwealth. However, this exemption shall not  
16 apply if the bonds, leases, or other debt instruments are issued for profit or on behalf  
17 of for-profit or private organizations.

18 (14) A county may impose a license fee or tax covering the entire county or may limit  
19 the application of the fee or tax to the unincorporated portions of the county.

20 ➔Section 5. KRS 91A.0806 is amended to read as follows:

21 (1) Before January 1, 2009, the Office of Insurance shall by administrative regulation  
22 establish criteria for the verification of risk location systems and programs. The  
23 criteria for verification shall include but not be limited to a requirement that the  
24 municipal and county boundary information of a risk location system or program  
25 uses the municipal and county boundary data available from the Commonwealth  
26 Office of Technology that is based upon municipal and other filings with the  
27 Secretary of State.

1 (2) Upon application of a vendor or insurance company for verification and payment of  
2 a two thousand five hundred dollar (\$2,500) application fee to the Office of  
3 Insurance, the office shall test the risk location system or program to determine  
4 whether the program shall be verified as meeting the criteria promulgated in the  
5 administrative regulation required by subsection (1) of this section. The Office of  
6 Insurance shall maintain a list of verified risk location systems or programs and  
7 shall make the list available to insurance companies and the public. The verification  
8 of a risk location system or program shall remain valid for a period of three (3)  
9 years unless revoked by the Office of Insurance.

10 (3) The Office of Insurance shall, by administrative regulation, provide an option for an  
11 insurance company to apply for a written order by the executive director of the  
12 Office of Insurance that the insurance company has a limited number of risk  
13 locations, not exceeding two hundred (200), in the Commonwealth that may be  
14 located by other means with an equivalent level of accuracy. Such an order shall  
15 remain valid for a period of three (3) years and as long as the insured risk of the  
16 insurance company does not exceed two hundred (200) in any calendar year.

17 (4) An insurance company shall be deemed to perform due diligence in the location of  
18 risks if the insurance company employs a verified risk location system or program  
19 in its collection of a tax or fee imposed pursuant to KRS 91A.080 and:

20 (a) Expends reasonable resources to accurately and reliably implement such  
21 method to collect and to remit the proper tax or fee due to the local  
22 government that has imposed a tax or fee pursuant to KRS 91A.080;

23 (b) Maintains adequate internal controls to correctly include in its database of  
24 policyholders the location of the risk insured, in the proper address format, so  
25 that matching with the database is accurate;

26 (c) Corrects errors in the assignment of addresses to local taxing jurisdictions  
27 within the next renewal period after the insurance company discovers the



1 errors, and, if applicable, reports such errors to the provider of the risk  
 2 location system or program; and

3 (d) In the case of insurance companies that issue policies covering multiple  
 4 locations, maintains adequate internal controls and employs an accurate and  
 5 consistent methodology to correctly prorate multilocation policies to assign  
 6 risks to appropriate addresses or, if a street address is unavailable, through  
 7 another appropriate identifier of physical location, and tax jurisdictions.

8 (5) Upon the presentation of proof that an insurance company has complied with the  
 9 provisions of subsection (4) of this section or has received an order of the Office of  
 10 Insurance under the administrative regulation promulgated pursuant to subsection  
 11 (3) of this section, the insurance company:

12 (a) Shall not be subject to penalties for failure to comply with KRS 91A.080 that  
 13 may otherwise be imposed pursuant to KRS Chapter 304 or KRS 91A.080(7)  
 14 for failure of a risk location system to properly locate risks;

15 (b) Shall be held harmless from any liability including but not limited to liability  
 16 for penalties, except for the tax that is due and interest on the tax that an  
 17 insurance company has failed to timely remit, that would otherwise be due  
 18 solely as a result of a failure to properly collect and remit the tax or fee levied  
 19 pursuant to KRS 91A.080 because of the failure of a risk location system to  
 20 properly locate risks; and

21 (c) Shall not be subject to penalties under KRS 91A.0804~~(3)~~~~(2)~~(c).

22 (6) On and after January 1, 2010, an insurance company shall use a verified risk  
 23 location system or program during the calendar year if the total policies issued and  
 24 renewed by the insurance company in Kentucky in the preceding calendar year is  
 25 more than two thousand (2,000).

26 ➔Section 6. KRS 91A.0810 is amended to read as follows:

27 (1) Effective December 31, 2008, if the local government premium tax is included in

1 the premium charge to the policyholder, the insurance company shall include on  
 2 either the renewal certificates or billings the amount of the local government tax  
 3 charged for the period and the name of the taxing jurisdiction to which the local  
 4 premium tax is due.

5 (2) Before December 31, 2008, each insurance company shall cause each current  
 6 policyholder to be notified of the policyholder's rights under this chapter. The one  
 7 (1) time notice may be sent to the policyholder under any mode of communication  
 8 normally used between the insurance company and the policyholder and may be  
 9 sent as a separate notice or included as an additional item within routine statements,  
 10 billings, or other notices. The Kentucky Office of Insurance shall promulgate by  
 11 administrative regulation the text of such notice, which shall include:

12 (a) A statement that past and future premium charges may include a local  
 13 insurance premium tax; and


14 (b) A statement that a policyholder who has been erroneously charged or  
 15 overcharged the local insurance premium tax may obtain information for  
 16 requesting a refund or credit by contacting the insurance company to which  
 17 the local insurance premium tax was erroneously paid.


18 (3) Any insurance company contacted by a policyholder under subsection (2) of this  
 19 section shall, within thirty (30) days of the contact, provide the policyholder the full  
 20 text of KRS 91A.0804~~(4)~~~~[(3)]~~ to inform the policyholder of the procedural  
 21 requirements for requesting a refund or a credit. The insurance company may, at its  
 22 option, include a summary or explanation of the procedural requirements in addition  
 23 to providing the text.

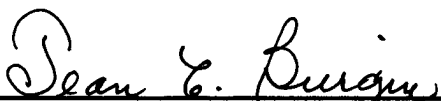
24 ➔Section 7. **License Tax on Insurance Companies:** Notwithstanding any other  
 25 statutory provision to the contrary, no license fee or tax imposed under KRS 91A.080  
 26 shall apply to premiums paid to insurance companies or surplus lines brokers by non-  
 27 profit self-insurance groups whose membership consists of cities, counties, charter county

1 governments, urban-county governments, consolidated local governments, school  
2 districts, or any other political subdivisions of the Commonwealth.

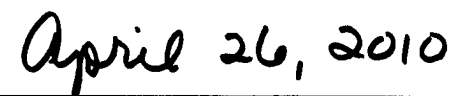
3       ➔Section 8. Section 7 of this Act is effective for and applies to the fiscal year  
4 beginning July 1, 2010, and ending June 30, 2011, and the fiscal year beginning July 1,  
5 2011, and ending June 30, 2012, and shall expire at the end of June 30, 2012.

  
\_\_\_\_\_  
Speaker-House of Representatives

  
\_\_\_\_\_  
President of Senate

Attest:   
\_\_\_\_\_  
Chief Clerk of House of Representatives

Approved   
\_\_\_\_\_  
Governor

Date   
\_\_\_\_\_  
April 26, 2010